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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 TIFFANY BRINKLEY, on behalf of
12 herself and others similarly situated,
13 Plaintiff,

14 v.

15 MONTEREY FINANCIAL SERVICES,
16 LLC, successor-in-interest to MONTEREY
17 FINANCIAL SERVICES, Inc.,
Defendants.

Case No.: 16cv01103-LL-WVG

**ORDER GRANTING
DEFENDANT’S *EX PARTE*
APPLICATION TO CONTINUE
THE HEARING DATE AND
BRIEFING SCHEDULE ON
PLAINTIFF’S MOTION FOR CLASS
CERTIFICATION**

[ECF No. 191]

18 **I. INTRODUCTION**

19 Before the Court is Defendant Monterey Financial Services, LLC’s (“Defendant”) *Ex Parte*
20 Motion to Continue the Hearing and Briefing Schedule with respect to Plaintiff’s
21 Motion to Certify Class (the “Application”). ECF No. 191. After considering the papers
22 submitted, supporting documentation, and applicable law, and as set forth below, the Court
23 **GRANTS** the Application.

24 **II. BACKGROUND**

25 The Court incorporates the factual and procedural background of this case as set
26 forth in *Brinkley v. Monterey Fin. Servs., LLC*, No. 3:16-cv-01103-WQH-WVG, 2020 WL
27 1929023, at *2 (S.D. Cal. Apr. 21, 2020) (Hayes, J.) and *Brinkley v. Monterey Fin. Servs.,*
28 *LLC*, No. 3:16-cv-01103-TWR-WVG, 2021 WL 6882428, at *1 (S.D. Cal. Dec. 6, 2021)

(Robinson, J.).

As pertains to the instant Application, on December 20, 2021, the Court issued a Scheduling Order Regulating Class Certification, which provided as follows:

Filing:	Deadline:
Motion for Class Certification:	Thursday, April 7, 2022
Opposition:	Thursday, April 28, 2022
Reply:	Thursday, May 5, 2022

ECF No. 185 at 2, ¶ 6; *see also* CivLR 7.1.

On April 7, 2022, Plaintiff filed her Motion for Class Certification. ECF No. 187. That same day, Plaintiff also filed a motion to seal various documents in support of her motion, ECF No. 188, which were lodged with the Court as ECF No. 189.

Filing:	Current Deadline:	Proposed New Deadline:
Motion for Class Certification:	Thursday, April 7, 2022	N/a
Opposition:	Thursday, April 28, 2022	Thursday, May 12, 2022
Reply:	Thursday, May 5, 2022	Thursday, May 19, 2022
Hearing:	Thursday, May 12, 2022	Thursday, May 26, 2022

ECF No. 191 at 2-3.

On April 22, 2022, Defendant filed the instant *Ex Parte* Motion to Continue the Hearing and Briefing Schedule with respect to Plaintiff's Motion to Certify Class. ECF No. 191. On April 25, 2022, Plaintiff opposed. ECF No. 192.

III. DISCUSSION

Defendant argues that good cause exists for the continuance because "Plaintiff's Motion raises complex and substantial issues of law," "[g]iven the nature of Plaintiff's Motion and the extensive work product necessary to generate the response in opposition to the Motion, [it] requires additional time to prepare a complete response to same." ECF No. 191 at 2:17-28. Defendant's counsel also indicates that it is lead counsel for two defendants in a lawsuit pending the Western District of Texas, where the plaintiffs are seeking more than \$90 million in damages, and they recently had to spend "significant time

1 preparing a motion to dismiss and a motion to say discovery.” *Id.* at 3:1-11. Additionally,
 2 they advise that the associating assigning lead counsel will be out of the office in the days
 3 leading up the present opposition deadline due to the birth of a child. *Id.* at 3:12-15.

4 Plaintiff opposes by advancing three arguments: First, she contends Defendant has
 5 known of its opposition deadline since January 4, 2022 but did not seek this continuance
 6 until 108 days later. ECF No. 192 at 2:13-23. Second, Plaintiff argues that good cause
 7 does not exist for the extension because Defendant bases its request on having to work on
 8 other matters. *Id.* at 2:24-3:8. However, Defendant knew more than 123 days ago, when
 9 the scheduling order was filed, that Plaintiff’s motion was due on April 7, 2022, meaning
 10 Defendant’s opposition would be due three weeks later. *Id.* Nonetheless, Defendant chose
 11 to work on other matters instead as well as wait until five courts days before the deadline
 12 to seek an extension. *Id.* Third, Plaintiff argues that if the Court were to grant the *ex parte*
 13 motion and continue Defendant’s opposition deadline to May 12, 2022, it would prejudice
 14 Plaintiff’s counsel’s ability to file her reply because of Plaintiff’s counsel’s motion filing
 15 deadlines and discovery response obligations in other cases during the time period of May
 16 12, 2022 to May 19, 2022 (the date Defendant proposed that Plaintiff be required to file
 17 her reply to Monterey’s opposition). *Id.* at 4:6-17. Thus, Plaintiff asks that if the Court
 18 grants the request, it continue Plaintiff’s reply brief deadline to May 26, 2022. *Id.*

19 The Court does not find Defendant’s stated reasons to qualify as good cause to
 20 continue the briefing schedule in a case that has been pending for almost six years.
 21 Moreover, that the request was made four court days before the deadline is not well-taken.
 22 However, given this is the first request with respect to the class certification motion, the
 23 Court grants the Application as set forth below.

24 **IV. CONCLUSION**

25 For the above reasons, the Court **GRANTS** Defendant’s request as follows:

Filing:	Current Deadline:	Proposed New Deadline:
Motion for Class Certification:	Thursday, April 7, 2022	N/a
Opposition:	Thursday, April 28, 2022	Thursday, May 12, 2022

1	Reply:	Thursday, May 5, 2022	Thursday, May 26, 2022
2	Hearing:	Thursday, May 12, 2022	The hearing will be
3			vacated, and the Court will
4			take the matter under
5			submission unless the
6			Court requests oral
7			argument.

No further continuances will be granted absent a strong showing of good cause.

IT IS SO ORDERED.

DATED: April 27, 2022



HON. LINDA LOPEZ
United States District Judge